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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

CERCLA SECTION 104(e)

RESPONSE TO INFORMATION REQUEST

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Respondent: The Marmon Group LLC

Site: Coeur d'Alene Basin

Period: 1880 to present

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**Please note:** this Information Request includes instructions for responding to this request and definitions of words such as "Respondent," "Site," and "identify" used in the questions.

INTRODUCTION

This document constitutes the response of **The Marmon Group LLC** ("Marmon") to an information request received from the United States Environmental Protection Agency ("EPA") on or about March 7, 2008. The information contained herein was derived solely from historical documents currently within The Marmon Group LLC's possession and control. The Marmon Group LLC has made a good faith effort to understand and interpret the documents in order to be responsive to the specific questions asked by EPA. However, the "facts" set forth in this response are not based on personal knowledge of anyone currently employed by The Marmon Group LLC and The Marmon Group LLC reserves the right to supplement or amend these answers should new and verifiable information contradict or require modifications to the interpretation given to the available documents. Please note that this response is on behalf of The Marmon Group LLC only. Group R Co., Inc. will provide a separate response.

GENERAL OBJECTIONS

1. Marmon provides consulting and administrative services, including tax and accounting services, legal counsel and management consulting to member companies of The Marmon Group. As Marmon explained in its August 13, 1997 letter to Elizabeth Loeb of the United States Department of Justice (copy attached), Marmon is not a liable party under CERCLA. Moreover, Marmon has never suggested that if it were a liable party for response costs incurred to investigate or remediate the Coeur d'Alene Basin, that it will raise an ability to pay defense to that liability. On that basis, Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant to 104(e) of CERCLA, and premature in the context of EPA's potential claim against Marmon.

2. The information relied upon to respond to this information request was gathered solely from historical documents maintained by Marmon. Given the time limits for answering this request, it is unreasonable and unduly burdensome (as well as practically impossible) to list all documents relied upon in preparation of each answer. However, all documents relied upon to prepare the answers have been provided herewith.

3. Marmon objects to the definition of the term "You" or "Respondent" on the grounds that it is overbroad and calls for a legal conclusion as to what are "predecessor or successor corporations or companies."

4. Marmon objects to the instruction requiring it to seek out former employees or agents as unreasonable, unduly burdensome and beyond EPA's statutory authority pursuant to section 104(e) of CERCLA.

5. Marmon objects to the instruction requiring it to continually supplement its response as unreasonable, unduly burdensome and beyond EPA's statutory authority pursuant to section 104(e) of CERCLA.

6. If requested by EPA, Marmon will provide a privilege log for any responsive documents that it has not produced.

#### **INFORMATION REQUEST QUESTIONS & RESPONSES**

1. Respondent Information

- a. Provide the full legal name and mailing address of the Respondent.

**The Marmon Group LLC  
181 West Madison St. - 26th Floor  
Chicago, IL 60602  
Attn. Robert W. Webb, Esq.**

- b. For each person answering these questions on behalf of Respondent, provide:

- i. full name;

**Lowenstein Sandler PC**

- ii. title;

**N/A**

- iii. business address;

**65 Livingston Avenue  
Roseland, N.J. 07068**

- iv. business telephone number and FAX machine number.

(973) 597-2500 (phone)  
(973) 597-2400 (fax)

- c. If Respondent wishes to designate an individual for all future correspondence concerning this Site, please indicate here by providing that individual's name, address, telephone number, and fax number.

**Michael David Lichtenstein, Esq.**  
**Lowenstein Sandler PC**  
**65 Livingston Avenue**  
**Roseland, N.J. 07068**  
**(973) 597-2500 (phone)**  
**(973) 597-2400 (fax)**

- d. If Respondent, its parent corporation, subsidiaries, predecessor, successor, or other related or associated companies have filed for bankruptcy, provide:
- i. the U.S. Bankruptcy Court in which the petition was filed;
  - ii. the docket numbers of such petition;
  - iii. the date the bankruptcy petition was tiled;
  - iv. whether the petition is under Chapter 7 (liquidation), Chapter 11 (reorganization), or other provision; and
  - v. a brief description of the current status of the petition.

**Respondent has not filed for bankruptcy.**

2. Financial Information

- a. Provide true and complete copies of all federal income tax documents, including all supporting schedules, for Group R Co., Inc. and Marmon Group, Inc. for tax years: 2001, 2002, 2003, 2004, 2005 and 2006. Provide the federal Tax Identification Number for Group R Co., Inc. and Marmon Group LLC. If documentation is not available, explain why in detail. Complete and return the enclosed IRS Form 5821, "Tax Information Authorization".

**Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant to 104(e) of CERCLA, and premature.**

- b. Provide true and complete copies of all state income tax documents, including all supporting schedules, for Group R Co., Inc. and Marmon Group LLC for tax

years 2001, 2002, 2003, 2004, 2005 and 2006.

**Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant to 104(e) of CERCLA, and premature.**

- c. Provide true and complete copies of Annual Financial Statements for Group R Co., Inc. and Marmon Group LLC including, but not limited to an income statement, balance sheet and cash flow statement for the last five years. Annual Financial Statements should be those completed by an outside CPA. In order of preference, this would be an audit, a review, or a compilation and include attached notes. If an outside CPA does not prepare these statements, then company-generated financial statements should be provided. In the event that final financial statements are not yet ready for a just completed fiscal year, then provide a draft copy. If documentation is not available, explain why in detail.

**Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant to 104(e) of CERCLA, and premature.**

- d. Provide a statement (with relevant details) as to whether the Respondent currently is, or anticipates being a party to, any litigation which has not been noted in the most recent financial statement and which could impact the Respondent's financial situation.

**Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant to 104(e) of CERCLA, and premature.**

- e. Provide a financial statement with relevant details as to whether Respondent currently is, or anticipates receiving or paying a financial settlement which has not been noted elsewhere or in the most recent financial statement.

**Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant to 104(e) of CERCLA, and premature.**

- f. Identify and provide information regarding Respondent's financial interest in, control, or that the Respondent is beneficiary of any assets (in the U.S. or in another country) that has not been identified in your federal tax returns or other financial information to be presented to EPA. If there are such assets, please identify each asset by type of asset, estimated value, and location.

**Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant to 104(e) of CERCLA, and premature.**

- g. If Respondent is, or was at any time, a subsidiary of, a surviving corporation of, otherwise owned or controlled by, or otherwise affiliated with another corporation or entity, then describe the full nature of each such corporate relationship,

including but not limited to:

**Marmon objects to this request as unreasonably vague and overly burdensome, and beyond the scope of EPA's authority pursuant to 104(e) of CERCLA.**

- i. a general statement of the nature of relationship, indicating whether or not the affiliated entity had, or exercised, any degree of control over the daily operations or decision-making of the Respondent's business operations at the Site;

**See description above.**

- ii. the dates such relationship existed;

**See description above.**

- iii. the percentage of ownership of Respondent that is held by such other entity(ies);

**See description above.**

- iv. for each such affiliated entity provide the names and complete addresses of its parent, subsidiary, and otherwise affiliated entities, as well as the names and addresses of each such affiliated entity's officers, directors, partners, trustees, beneficiaries, and/or shareholders owning more than five percent of that affiliated entity's stock;

**Marmon objects to this request as unduly burdensome and beyond the scope of EPA's authority pursuant to 104(e) of CERCLA.**

- v. provide any and all insurance policies for such affiliated entity(ies) which may possibly cover the liabilities of the Respondent at the Site; and

**Copies of all insurance policies that were located that were responsive to this request are included with the response of Group R Co., Inc. Marmon, however, is not the holder of any insurance policies responsive to this request.**

- vi. provide any and all corporate financial information of such affiliated entities, including but not limited to total revenue or total sales, net income, depreciation, total assets and total current assets, total liabilities and total current liabilities, net working capital (or net current assets), and net worth.

**Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant to 104(e) of CERCLA, and premature.**

- vii. provide any and all documents related to any merger, including but not

limited to any documents addressing the assumption of liabilities.

**Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant to 104(e) of CERCLA, and premature.**

3. Insurance Coverage

- a. Provide copies of all property, casualty and/or liability insurance policies, and any other insurance contracts referencing Group R Co., Inc. and Marmon Group LLC; and/or Respondent business operations (including, but not limited to, Comprehensive General Liability, Environmental Impairment Liability, Pollution Legal Liability, Cleanup Cost Cap or Stop Loss Policies). Include, without limitation, all primary, excess, and umbrella policies which could be applicable to costs of environmental investigation and/or cleanup, and include the years such policies were in effect.

**Copies of all insurance policies that were located that were responsive to this request are included with the response of Group R Co., Inc. Marmon, however, is not the holder of any insurance policies responsive to this request.**

- b. If there are any such policies from questions (a.) above which existed, but for which copies are not available, provide the following information and identify each by providing as much of the following information as possible:

**Copies of all insurance policies that were located that were responsive to this request are included with the response of Group R Co., Inc. Marmon, however, is not the holder of any insurance policies responsive to this request.**

- i. the name and address of each insurer and of the insured;
  - ii. the type of policy and policy numbers;
  - iii. the per occurrence policy limits of each policy; and
  - iv. the effective dates for each policy.
- c. Identify all insurance brokers or agents who placed insurance for the Respondent at any time during the period being investigated, as identified at the beginning of this request, and identify the time period during which such broker or agent acted in this regard.
- Marmon objects to this request as unduly burdensome and beyond the scope of EPA's authority pursuant to 104(e) of CERCLA.**
- d. Identify all communication and provide all documents that evidence, refer, or relate to claims made by or on behalf of the Respondent under any insurance policy in connection with the Site. Include any responses from the insurer with

respect to any claims.

**Copies of all responsive documents are included with the response of Group R Co., Inc.**

- e. Identify any previous settlements with any insurer in connection with the Site, or for any claims for environmental liabilities during the time period under investigation. Include any policies surrendered or cancelled by the Respondent or insurer.

**Marmon is not aware of any settlements with any insurer that will affect the payment obligation of Marmon. Marmon objects to providing any additional information because the request is unduly burdensome and beyond the scope of EPA's authority pursuant to 104(e) of CERCLA.**

- f. Identify any and all insurance, accounts paid or accounting files that identify Respondent's insurance policies.

**Marmon objects to this request as unduly burdensome and beyond the scope of EPA's authority pursuant to 104(e) of CERCLA.**

- g. Confirm whether and when any claims were made or notice given under any insurance policies identified in response to questions 3 a. or b. above, for claims by the United States for environmental liability at the Site. If notice to the insurer was given in writing, provide a copy of the notice.

**Copies of all responsive documents are included with the response of Group R Co., Inc.**

4. Real Property

- a. Please list all-real property, as well patented and unpatented mining claims, owned by Group R Co., Inc. or Marmon Group LLC.

**Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant to 104(e) of CERCLA, and premature.**

- b. Has the property identified in (a.) above been leased? If so identify the lessee(s) of the property.

**Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant to 104(e) of CERCLA, and premature.**

- c. As to the property identified in (a.) above, has Group R Co., Inc. or Marmon Group LLC sold any interest in the property, including any timber or mineral rights?

**Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant**

**to 104(e) of CERCLA, and premature.**

- d. As to the property identified in (a.) above, is the property subject to any mortgage, lease of other encumbrance? If so, identify what kind, with whom, for what amount, the terms, and any documentation thereof within your possession and control.

**Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant to 104(e) of CERCLA, and premature.**

- e. Identify all real property in which Group R Co., Inc. or Marmon Group LLC had an ownership interest at any time during the past fifty (50) years and state for each piece of real property:
- i. the name of the owner listed on the deed;
  - ii. the identity and location of the property (address or legal description, including county);
  - iii. the nature of the interest;
  - iv. when it was purchased; from whom and for how much;
  - v. when it was sold, if applicable and to whom and for how much;
  - vi. whether the property is currently subject to any mortgage, lease or other encumbrance. If so identify what kind, with whom, for what amount, the terms, and any documentation thereof within your possession or control.

**Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant to 104(e) of CERCLA, and premature.**

- f. Is Group R Co., Inc. or Marmon Group LLC the beneficial owner of any assets or property interests that are held by another or titled in another's name? If so, describe all such assets, its value, location, and in whose name such assets are held.

**Marmon objects to providing any financial information relating to its ability to pay as unduly burdensome, beyond the scope of EPA's authority pursuant to 104(e) of CERCLA, and premature.**

- g. Provide all documents relating to the Respondent's ownership or leasing of mining claims or patents in the Coeur d'Alene Basin.

**Documents related to ownership or leasing of mines or patents by Golconda Lead Mines, Inc., Golconda Mining Corporation and Golconda Corporation are being provided herewith.**



5. Compliance with This Request.

- a. Describe all sources reviewed or consulted in responding to this request, including, but not limited to:

**Marmon has reviewed all documents within its custody and control that were believed to contain information responsive to this information request.**

- b. the name and current job title of all individuals consulted;

**N/A**

- c. the location where all documents reviewed are currently kept.

**Records are currently maintained at the offices of Lowenstein Sandler PC in Roseland, NJ.**

## INSTRUCTIONS

1. Answer Each Question Completely. Provide a separate answer to each question and subpart set forth in this Information Request. Incomplete, evasive, or ambiguous answers shall constitute failure to respond to this Information Request and may subject the Respondent to the penalties set out in the cover letter.
2. Number Each Answer. Number each answer with the number of the question to which it corresponds.
3. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. Seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered noncompliance with this Information Request.
4. Identify Information Sources. For each question, identify all persons and documents relied upon for the answer.
5. Confidential Information. The information requested herein must be provided even though the Respondent may contend that it includes confidential information or trade secrets. The Respondent may assert a confidentiality claim covering part or all of the information requested, pursuant to 42 U.S.C. §§9604(e)(7)(E) and (F), and 40 C.F.R. §2.203(b). All information claimed to be confidential should be contained on separate sheet(s) and should be clearly identified as "trade secret" or 'proprietary' or "company confidential." A confidentiality claim should be supported by the submission of information consistent with 40 C.F.R. Part 2. Information covered by a confidentiality claim will be disclosed by EPA only to the extent, and only by means of the procedures, provided in 40 C.F.R. §§2.201-2.311. If no such claim accompanies the information received by EPA, it may be made available to the public by EPA without further notice.
6. Disclosure to EPA Contractor. Information submitted in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. 2.310(h), even if the Respondent asserts that all or part of it is confidential business information. EPA may provide this information to its contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If submitting information and asserting it is entitled to treatment as confidential business information, the Respondent may comment on EPA's intended disclosure within 14 days of receiving this Information Request.
7. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy, should be segregated from responses, included on separate sheet(s), and marked as "Personal Privacy Information". Note, however, that unless prohibited by law, EPA may disclose this information to the general public without further notice.

8. Objections. The Respondent must provide responsive information notwithstanding objections to certain questions. To object without providing responsive information may subject Respondent to the penalties set out in the cover letter,

9. Privilege. If a privilege is asserted for any document responsive to this Information Request, identify (see Definitions) the document and provide the basis for assertion. If a privilege exists for only a portion of a document, provide the portion of the document that is not asserted be privileged, identify the portion that is asserted to be privileged, and provide the basis for asserting privilege. Please note that regardless of the assertion of any privilege, any facts contained in the document which are responsive to the Information Request must be disclosed in your response.

10. Declaration. The Respondent must complete the enclosed declaration, certifying the accuracy of all statements in your response.

11. Tax information. Complete the enclosed IRS Form 8821, 'Tax Information Authorization'.

12. Submit Documents with Labels Keyed to Question. For each document produced in response to this Information Request, indicate on the document (or in some other reasonable manner) the number of the question to which it responds.

13. Continuing Obligation to Provide/Correct Information. In additional information or documents responsive to this Information Request become known or available to you after you respond to this Request, EPA hereby requests pursuant to Section 104(c) of CERCLA, 42 U.S.C. §9604(e), that you supplement your response to EPA. Failure to supplement your response within thirty (30) days of discovering such responsive information may subject you to up to \$32,500 per day in penalties. If at any time after submission of this response, you discover or believe that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response. If any part of the response to this Information Request is found to be false, the signatory of the response and the company may be subject to criminal prosecution.

## DEFINITIONS

All terms not defined herein shall have their ordinary meaning, unless such terms are defined in Section 101 of CERCLA, 42 U.S.C. §9601, *et seq.*, or Volume 40 of the Code of Federal Regulations (CFR), in which case such statutory or regulatory definitions shall apply.

The following definitions shall apply to the following words as they appear in this Enclosure:

1. The term "Respondent" shall mean Group R Co., Inc. and Marmon Group LLC together with the addressee's officers, directors, employees, contractors, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by Group R Co., Inc. and Marmon Group LLC or anyone else acting on its behalf or otherwise subject to its control, and any merged, consolidated, or acquired predecessor or successor, parent, subsidiary, division or affiliate.

2. The terms "document:" and "documents" shall mean any method of recording, storing, or transmitting information. "Document" shall include, but not be limited to:

- a. writings of any kind, including, but not limited to, any of the following:
  - i. letters, memoranda, fax transmittals;
  - ii. meeting minutes, telephone records, notebooks;
  - iii. agreements and contracts;
  - iv. reports to shareholders, management, or government agencies;
  - v. transportation manifests;
  - vi. copies of any document.
- b. any film, photograph, or sound recording on any type of device;
- c. any blueprints or drawings;
- d. attachments to, or enclosures with, any document.

3. The term "identify" means, with respect to a natural person, to set forth: (a) the person's full name, (b) present or last known business and home addresses and telephone numbers; and (c) present or last known employer (include full name and address) with job title, position, or business.

4. The term "identify" means, with respect to a corporation, partnership, business trust, or other entity, to set forth: (a) its full name; (b) complete street address; (c) legal form (e.g., corporation, partnership, etc.); (d) the state under whose laws the entity was organized; and (c) a brief description of its business.

5. The term "identify" means, with respect to a document, to provide: (a) its customary business description (e.g., letter, invoice); (b) its date; (c) its number if any (e.g., invoice or purchase order number); (d) the identity of the author, addressee, and/or recipient; and (e) a summary of the substance or the subject matter. Alternatively, Respondent may provide a complete copy of the document.

6. The "period being investigated" and "the relevant time period" shall mean 1880 to the present.

7. The term "property" shall mean any interest in real or personal property whatsoever, including fee interests, leases, licenses, rental, and mineral rights.

8. The term "Coeur d'Alene Basin" or "Site" shall mean the Bunker Hill facility which extends from the headwaters of the South Fork of the Coeur d'Alene River to the lower Coeur d'Alene River, Lake Coeur d'Alene, and Spokane River, and includes those areas where hazardous substances released from mining and mineral processing operations have come to be located.

## **DECLARATION**

I declare under penalty of perjury that I am authorized to respond on behalf of Marmon Group LLC and that the foregoing is complete, true, and correct to the best of my current knowledge.

Executed on June 18, 2008

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Robert W. Webb, Esq.  
Vice President & General Counsel